EX PARTE OR LATE FILED

LAW OFFICES
GINSBURG, FELDMAN AND BRESS
CHARTERED
1250 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 637-9000

CORRESPONDENT OFFICE
9, RUE BOISSY D'ANGLAS
75008 PARIS, FRANCE

HENRY M. RIVERA
(202) 637-9012

TELECOPIER (202) 637-9195
TELEX 4938614

January 18, 1995

Ex Parte

The Honorable Susan Ness
Commissioner
Federal Communications Commission
1919 M Street NW, Room 832
Washington, DC 20554

Re: PR Docket No. 93-61
Automatic Vehicle Monitoring

Dear Commissioner Ness:

I write to again express the extreme significance to Metricom, Inc., Southern California Edison ("SCE") and the electric utility ratepayers of Southern California of any height threshold below 15 meters that might be established by the Commission in the above-referenced proceeding. Metricom's position, which is endorsed by SCE and which is expressed in Metricom's December 29, 1994 letter (which is part of the record in this proceeding), is that the Commission should create an irrebuttable presumption of non-interference to multilateration systems from any Part 15 device operating with a fixed, outdoor antenna, regardless of height. In other words, Metricom's and SCE's position is that there should be no height threshold for such Part 15 devices above which the irrebuttable presumption does not apply.

However, if the Commission cannot be dissuaded from implementing a height threshold, the absolute minimum Metricom and SCE can tolerate is a 15 meter antenna height threshold for outdoor devices operating at full authorized Part 15 power. This is a critically important issue for Metricom and its customers, among whom are SCE and others who comprise some of America's largest electric utilities.

Metricom and its customers *have more than 20,000 Part 15 radios currently deployed and operating* in a number of locations throughout the United States. Most of these Part 15 radios operate outdoors at heights of up to 15 meters above the ground. Approximately 1,000 of these radios operate on building tops, water tanks and on communication towers which exceed 15 meters above the ground. As of the end of 1994, there was a *total investment of approximately $27.6 million in Metricom Part 15 radios*, $1.3 million of which are owned by Metricom. This $27.6 million investment does not include installation costs or ancillary equipment designed for use with the radio networks (e.g., meters, remote terminal units, headend equipment, etc.). This investment is, by any measure, a significant investment and could be placed in extreme jeopardy by a height threshold of less than 15 meters.

To date, SCE has installed 8,000 Metricom radios in its service area, and has invested *$29 million* in project costs to purchase and install these radios, ancillary equipment and facilities. In addition, SCE has 8,300 Metricom Part 15 radios in stock for planned installation during 1995-1996. In 1997-1998, SCE plans to install an additional 10,000 radios. SCE plans to install approximately 30,000 Metricom Part 15 radios in order to complete this project. Finally, it should be noted that since 1993, SCE has spent approximately *$30 million* researching Part 15 radio networks and associated automatic metering technology. It is quite significant that the California Public Utility Commission authorized SCE's investment in these Part 15 devices with electric utility ratepayer money. This very substantial ratepayer funded investment could be placed in extreme jeopardy if a height threshold of less than 15 meters is adopted by the Commission.

The vast majority of Metricom's radios are located on top of street light poles. An example of this type of mounting can be seen in the attached photo taken in SCE's service area. These radios are located in this manner because they: (1) cannot be tampered with or modified in violation of Part 15 rules; (2) are easily installed in as few as 10 minutes per site; (3) can draw power from the street light at that location; (4) provide favorable and efficient coverage; and, (5) were specifically designed for this type of deployment. Metricom knows of no useable light poles that are five meters high. A five meter height threshold does Metricom or SCE absolutely no good.

If the Commission enacts a five meter height threshold with power reductions as the height increases, the Part 15 radios of Metricom, SCE and others (including Metricom customers and several

other companies' customers who depend on roof-top and communications tower mounted Part 15 radios) are vulnerable to being shut down by providers of the newly proposed LMS due to the interference these Part 15 radios will undoubtedly cause the LMS providers. This is manifestly unfair to Metricom, SCE and the electric utility rate-payers of Southern California, and other manufacturers and users whose radios are deployed and operate in complete compliance with all Part 15 rules, and share the spectrum extremely well with all current users of the band. Metricom, SCE and the electric utility rate-payers of Southern California should not be made to pay for LMS systems' inability to robustly share the spectrum in this band.

Metricom's Part 15 state of the art technology and system architecture should not be made the scapegoat in this proceeding; if the Commission cannot be dissuaded from enacting a height threshold, it is absolutely critical for Metricom's and SCE's radios that the height threshold be no less than 15 meters and that radios at that height be permitted to operate at the full authorized Part 15 effective radiated power levels.

In accordance with Section 1.1206(a)(1) of the Commission's Rules, two copies of this letter are being filed with the Secretary's office.

Sincerely,

Henry M. Rivera

Henry M. Rivera

cc: Mr. William Caton (2 copies)
Mr. David Siddall